



FH

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: SSP - 203554

PRELIMINARY RECITALS

Pursuant to a petition filed on October 25, 2021, under Wis. Stat. § 49.45(5), and Wis. Admin. Code § HA 3.03, to review a decision by the Division of Medicaid Services regarding State Supplemental SSI benefits, a hearing was held on December 16, 2021, by telephone.

The issue for determination is whether the petitioner's Wisconsin State Supplemental Security Income (SSI) payment was correctly discontinued because her federal SSI cash benefits ended.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, WI 53703

By:

Division of Medicaid Services
PO Box 309
Madison, WI 53701-0309

ADMINISTRATIVE LAW JUDGE:

Beth Whitaker
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner ([REDACTED]) is a resident of Dane County and has received federal Supplemental Security Income (SSI) payments from the Social Security Administration (SSA) and state SSI payments from the State of Wisconsin.
2. On November 4, 2021 the agency issued a notice to petitioner in care of her mother informing her that her state SSI payments would end because her federal SSI ended October 31, 2021.
3. According to the State SSI Analyst, the Social Security Administration has petitioner being placed in a non-payment status code of N04 (Member's non-excludable resources exceed Title XVI limitations) effective November 30, 2021.

DISCUSSION

Effective January 1, 1996, the State of Wisconsin began sending out its State Supplemental SSI payments separately from Federal SSI payments (they had previously been sent out as one check by the Social Security Administration). The petitioner was eligible for State Supplemental SSI because he received a Federal SSI payment. Wis. Stat. Sec. 49.77.

The petitioner received State Supplemental SSI because she was receiving Federal SSI (Title XVI). Because her Federal SSI has been terminated (a fact that the State cannot change), she cannot qualify for State Supplemental SSI pursuant to §49.177(2)(a)2 above. I have no evidence that she qualifies under any of the other provisions listed and I must, therefore, conclude that she is not eligible for the State Supplemental SSI until she again receives Federal SSI payments.

At hearing petitioner's mother testified as to her need for the State SSI payments. She testified that she filed an appeal through the SSA to contest the federal SSI ending. Petitioner has to pursue that case with the Social Security Administration to contest the action in order to affect the state benefits. If he is again placed in federal pay status, he will again be eligible for state SSI payments.

In case petitioner finds this decision unfair, I add that it is the long-standing position of the Division of Hearings & Appeals that the Division's hearing examiners lack the authority to render a decision on SSP-200763 3 equitable arguments. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. In other words, I cannot change the outcome if I found it unfair.

CONCLUSIONS OF LAW

The agency correctly terminated the petitioner's State SSI supplement because her Federal SSI was terminated.

THEREFORE, it is

ORDERED

The petition for review herein is dismissed

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 4822 Madison Yards Way, 5th Floor North, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN

INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

APPEAL TO COURT

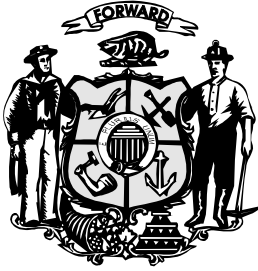
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 19th day of January, 2022



\s _____
Beth Whitaker
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on January 19, 2022.

Division of Medicaid Services
State SSI